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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,593	10/19/2001	Matthew P. Kulig	60022210-0157	6376

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EXAMINER	
BURGESS, BARBARA N	

ART UNIT	PAPER NUMBER
2157	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/037,593	KULIG ET AL.	
	Examiner	Art Unit	
	BARBARA N. BURGESS	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,7-19,21-27 and 54-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,7-19,21-27 and 54-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6-6-08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The Office Action is in response to Amendment filed April 7, 2008. Claim 6 is cancelled as requested by Applicant. Claims 1-3, 5, 7-19, 21-27, 54-59 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-13-19, 21-27, 54-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Lachman, III et al. (hereinafter "Lach", US Patent Publication 2002/0166063 A1).

As per claim 1, Lach discloses a system for controlling transmission of data packets through an information network, each data packet comprising a content portion, a header, and a trailer, the information network having a plurality of user workstations communicatively coupled to a network access point (NAP), said system comprising:

- A Regional Transaction Processor (RTP) (paragraphs [0070-0072]);
- a data Enabling Device (DED), said DED being disposed at the NAP and communicatively coupled to the RTP, said DED containing content match information and operable to:

a. inspect at least the content portions of data packets transiting the NAP (paragraphs [0073, 0081, 0098]);

b. forward an inspected data packet when information within the content portion of a data packet is not substantially similar to content match information (paragraphs [0112, 0117]);

c. when information within the content portion of an inspected data packet is substantially similar to content match information, temporarily store the inspected data packet, initiate issuance of a DED message to a recipient user workstation and invoke the RTP to process a transaction (paragraphs [0101, 0111, 0120-0121, 0124, 0172]);

d. the RTP transmits an RTP message to the DED authorizing forwarding of the data packet only when a result of the transaction indicates that forwarding is appropriate (paragraphs [0107, 0110, 0112, 0114]).

As per claim 2, Lach discloses the system as set forth in claim 1, wherein the transaction is based on control information associated with the content match information (paragraphs [0017, 0020]).

As per claim 5, Lach discloses the system, as set forth in claim 1, wherein the RTP comprises a network server and a database, and is operable to process requests for content (paragraphs [0069-0071])

As per claim 7, Lach discloses the system, as set forth in claim 1, further comprising a plurality of NAPs along a network route, wherein each NAP has an associated DED operable to communicate with at least one of the other DEDS (paragraph [0116]).

As per claim 8, Lach discloses the system, as set forth in claim 7, wherein a first NAP include a first DED for generating a DED message and the system comprises at least one intermediate DEDS operable to forward the DED message to a DED closest, within the information network, to the recipient user workstation (paragraph 0116]).

As per claim 9, Lach discloses the system, as set forth in claim 7, wherein a plurality of DEDS are operable to communicate with each other to prevent transmitting more than one DED message for the same data packet within the information network (paragraph [0117]).

As per claim 10, Lach discloses the system, as set forth in claim wherein the RTP transmits one of a Release Content message and a Cease-content message to the DED, based on result of the transaction (paragraph [0190]).

As per claim 11, Lach discloses the system, as set forth in claim 1, wherein the DED includes Field Programmable Gate Arrays (FPGAS) (paragraphs [0065-0066]).

As per claim 12, Lach discloses the system, as set forth in claim 11, wherein the FPGAS are reprogrammed over the network to perform a content matching function (paragraphs [0065, 0067, 0081]).

As per claim 13, Lach discloses the system, as set forth in claim 11, wherein a portion of the DED is dynamically reprogrammed and the DED is operable to continue processing the data packets during the dynamic reprogramming (paragraph [0114]).

As per claim 14, Lach discloses the system, as set forth in claim 1, further comprising a Central Storage and Backup System (CSBS) operable to communicate with the RTP, to monitor operation of the RTP, and to store transaction information (paragraph [0129]).

As per claim 15, Lach discloses the system, as set forth in claim 14, wherein the CSBS is operable to transmit information to reprogram the DED to communicate with another RTP (paragraph [0114]).

As per claim 16, Lach discloses the system, as set forth in claim 1, further comprising a content matching server operable to store content match information, to communicate with the DED, and to transmit the content match information to the DED (paragraphs [0098, 0109-0110]).

As per claim 17, Lach discloses the system, as set forth in claim 1, wherein the DED is operable to suspend transmission of the data packets through the information network until a response to a prompt is received (paragraph [0111]).

As per claim 18, Lach discloses a method, an apparatus, and a computer program product for controlling transmission of data packets through an information network, each data packet comprising a content portion, a header, and a trailer, the information network having a plurality of user workstations communicatively coupled to a network access point (NAP), said method comprising:

- Inspecting at least the content portions of data packets transiting the NAP with a Data Enabling Device (DED), said DED being disposed at the NAP and communicatively coupled to a Regional Transaction Processor (RTP), said DED containing content match information (paragraphs [0020, 0110]);
- Forwarding an inspected data packet when information within the content portion of the inspected data packet is not substantially similar to content match information (paragraphs [0110-0111]);
- when information within the content portion of an inspected data packet is substantially similar to content match information, temporarily storing the inspected data packet, issuing a prompt to a recipient user workstation, and invoking the RTP to process a transaction (paragraphs [0101, 0111, 0120-0121, 0124]).

As per claim 19, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18 and 28, wherein the prompt is based on control information associated with the content match information (paragraphs [0017, 0020]).

As per claim 21, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 36, further comprising: processing a transaction based on a response to the prompt received from the recipient user workstation (paragraph [0172]).

As per claim 22, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 36,wherein the information network comprises a plurality of DEDs, and the method further comprising transmitting a message among a plurality of DEDS along the transmission path to prevent transmitting more than one prompt for the same data packet (paragraph [0117]).

As per claim 23, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 39, further comprising: processing a transaction based on a user response to the prompt, and transmitting a Release Content or Cease Content message to the DED based on whether content was authorized to be downloaded to the workstation as part of the transaction (paragraph [0190]).

As per claim 24, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, further comprising: reprogramming a portion of the DED to detect different content match information (paragraph [0114]).

As per claim 25, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, further comprising suspending transmission of a data packet through the information network until a user response to the prompt is received (paragraph [0111]).

As per claim 26, Lach discloses a computer program product comprising: program instructions to implement the method of claim 18 (paragraphs [0064-0067]).

As per claim 27, Lach discloses a data signal comprising:
program instructions to implement the method of claim 18 (paragraphs [0064-0067]).

As per claim 54, Lach discloses the system, as set forth in claim 1, wherein the DED is further operable to search the data packets for content match information to determine whether transmission of data packets containing particular content should be unconditionally prevented, and when the DED finds such content match information, the DED prevents without additional processing, forwarding of data packets containing said

particular content, without additional processing (paragraph 0087, 0090]).

As per claim 55, Lach discloses the system, as set forth in claim 1, wherein a content provider supplies transaction instructions to the RTP for use by the RTP when processing a transaction when the DED finds the content match information in a data packet (paragraphs [0082-0083]).

As per claim 56, Lach discloses the system, as set forth in claim 55, wherein the instructions include transmitting a transaction prompt to the recipient user workstation informing of a price to pay for content in a data packet, and allowing the user to accept or decline purchase of the content (paragraph [0126]).

As per claim 57, Lach discloses the system, as set forth in claim 55, wherein the instructions specify transmitting a prompt to inform a user that content infected with a virus is attempting to be transmitted from or received by the recipient user workstation and that transmission or reception of the virus is being halted (paragraph [0176]).

As per claim 58, Lach discloses the system, as set forth in claim 55, wherein the instructions include transmitting a prompt to the recipient user workstation to inform that content subject to security control is attempting to be transmitted from or received by the recipient user's workstation, and that transmission or reception of the content is

being halted (paragraph [0169]).

As per claim 59, Lach discloses the system, as set forth in claim 1, wherein the RTP tallies statistics regarding transmission of designated content (paragraph [0172]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lachman, III et al. (hereinafter "Lach", US Patent Publication 2002/0166063 A1) in view of May (US Patent 5,710,757).

As per claim 3, Lach discloses the system, as set forth in claim 1.

Lach does not explicitly disclose wherein the DED is operable to detect when the data packets include content match information at a rate proportional to the rate at which the data packets are received by the DED.

However, in an analogous art, May discloses an electronic device setting a decoding rate to be an address rate, then reads the address data at the address rate. The device determines that the address data matches an address of the electronic device. The

device then adjusts the decoding rate to be a message rate different than the address rate, where the message rate corresponds to the address (column 2, lines 11-25).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate or implement May's detecting when the one or more data packets include content match information at a rate proportional to the rate at which the data packets are received in Lach's system allowing service providers to transmit and electronic device to process different types of messages at different rates.

Response to Arguments

The Office notes the following argument(s):

(a) Lachman III (US Patent Publication 2002/0166063 A1) claims priority to Lachman I (US Provisional Patent Application serial no. 60/272,712) filed March 1, 2001. The filing date of the instant application falls between Lachman III and the provisional application. Any new matter in Lachman III cannot be used as prior art against the claims of the instant application.

(b) Lachman I does not disclose user workstations nor does it disclose anything analogous to Applicant's RTP.

(c) Lachman I does not disclose or suggest anything analogous to a DED operable to search data packets for content match information.

(d) Lachman I does not prevent further transmission of any packets.

5. Applicant's arguments filed have been fully considered but they are not persuasive.

In response to:

(a) The **provisional application, Lachman I (60/272,712)**, for which Lachman III (US Patent Application Publication 2002/0166063 A1) claims benefit, discloses subject matter which is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application (US Patent Publication 2002/0166063 A1) was filed, had possession of the claimed invention. Therefore, Lachman III can be used as prior art against the instant application. Therefore, the effective date of the patent is the provisional date of March 1, 2001.

(b) Lachman III teaches triggering an "Alert" message, as well as providing attack reports and displaying "Warning" messages (paragraphs [0101, 0128, 0153]). Lachman III further teaches an offensive countermeasure server (RTP) which can provide a pathway for initiating an offensive countermeasure against attacker. This server is connected to the A.N.T. system (DED) used to monitor data sent between the host router and host server to detect attacks (paragraphs [0070-0071]). Therefore, Lachman III indeed discloses user workstations and Applicant's RTP.

(c) Lachman III teaches an A.N.T. system that analyzes packets to determine if they match a signature of an attack type, or if they contain similar or matching data. The packet snifffing module of the system compares information within packets to detect packets comprising similar or matching information (paragraphs [0073, 0081, 0098, 0100]). Therefore, Lachman III undoubtedly discloses a DED operable to search data packets for content match information.

(d) Lachman III teaches the host router can deny or allow certain traffic to the host network. Packets that may part of an attack can be rejected from transmission (paragraphs [0111, 0120]).

Therefore, Lachman III discloses preventing further transmission of packets.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA N. BURGESS whose telephone number is (571)272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Barbara N Burgess/
Examiner, Art Unit 2157

Barbara N Burgess
Examiner
Art Unit 2157

July 20, 2008

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157